

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

PRIME HEALTH SERVICES, INC., )  
Plaintiff, )  
v. ) NO. 3:16-cv-00034  
CAPITAL BANK, N.A., and CAPITAL ) JUDGE CRENSHAW  
BANK FINANCIAL CORP., )  
Defendants. )

## **ORDER**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Capital Bank, N.A. and Capital Bank Financial Corporation filed a Motion to Dismiss (“Motion”) (Doc. No. 36) the Complaint for failure to state a claim upon which relief can be granted. For the reasons set forth in the accompanying memorandum, the Motion will be is **DENIED** as to Prime Health Service, Inc.’s first and second causes of action, but is **GRANTED** as to Prime’s third cause of action.

IT IS SO ORDERED.

Waverly D. Crenshaw, Jr.  
WAVERLY D. CRENSHAW, JR.  
UNITED STATES DISTRICT COURT